

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

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DEC 17 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0096
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
KEVIN JOSEPH RUHL,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20090063001

Honorable Jose H. Robles, Judge Pro Tempore

AFFIRMED

Robert J. Hirsh, Pima County Public Defender
By David J. Euchner

Tucson
Attorneys for Appellant

H O W A R D, Chief Judge.

¶1 After a jury trial, appellant Kevin Ruhl was convicted of aggravated driving under the influence of an intoxicant (DUI), having had two prior convictions for DUI offenses committed during the previous eighty-four months. The trial court suspended the imposition of sentence and placed Ruhl on probation for a term of five years, with the condition that he first complete a four-month prison term.

¶2 Counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing he has reviewed the entire record and found no arguably meritorious issue to raise on appeal. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, he has provided “a detailed factual and procedural history of the case with citations to the record,” and asks this court to search the record for error. Ruhl has not filed a supplemental brief.

¶3 We conclude substantial evidence supported findings of all the elements necessary for Ruhl’s convictions. *See* A.R.S. §§ 28-1381(A)(1), 28-1383(A)(2). In sum, on February 18, 2008, Pima County Sheriff’s deputies responded to a reported collision scene and found Ruhl, who appeared intoxicated and told the deputies he had been driving when his vehicle collided with a tree. Ruhl later stipulated that he had a blood alcohol concentration of at least .08 when the collision occurred. The state presented evidence that Ruhl previously had been convicted of DUI offenses committed in July 2003 and July 2004. We further conclude that Ruhl’s disposition was authorized by statute and imposed in a lawful manner. *See* A.R.S. §§ 13-902(B)(2), 28-1383(D)(2).¹

¹The Arizona criminal sentencing code has been renumbered, effective “from and after December 31, 2008.” *See* 2008 Ariz. Sess. Laws, ch. 301, §§ 1-120. For ease of

¶4 In our examination of the record pursuant to *Anders*, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, we affirm Ruhl’s conviction and disposition.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

reference and because no changes in the statutes are material to the issues in this case, *see id.* § 119, we refer in this decision to the current section numbers rather than those in effect at the time of the Ruhl’s offense.